

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

Bernard L. Madoff Investment Securities LLC,

Defendant.

In re:

BERNARD L. MADOFF

Debtor.

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff Investment  
Securities LLC,

Plaintiff,

v.

MAGNIFY INC., et. al.,

Defendants.

Adv. Pro. No. 08-01789

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pr. No. 10-05279 (SMB)

**MEDIATOR'S INTERIM REPORT**

1. This Court ordered mediation in this Adversary Proceeding on June 19, 2019 and the parties approved and retained me as mediator on or about July 10, 2019.

2. The mediation of the Adversary Proceeding initially took place on September 11 and 12, 2019 at the offices of Baker & Hostetler LLP in New York, New York, at which the Trustee's Counsel and SIPC's counsel personally appeared, and the Defendants' Counsel and

Defendant Yair Green on behalf of himself and other Defendants, personally appeared. The mediation was conducted in good faith and while significant progress was made, the mediation did not result in a settlement at that time. Nonetheless, settlement discussions continued thereafter over a period of several months and included some of the Defendants in the Trustee's corresponding action brought in Israel. I was periodically consulted and kept up to date by the parties.

3. I am pleased to report that the parties continued to negotiate in good faith and have reached a settlement in principle.

4. The settlement in principle resolves all the Trustee's claims against all the Defendants in this Adversary Proceeding.

5. The settlement in principle also resolves a litigation brought by the Trustee in Israel against certain related individual defendants. The parties held a mediation in Israel earlier in May of this year in an attempt to resolve the Israeli action. A second litigation in Israel, against certain institutional defendants, remains pending.

6. Although a confidential settlement term sheet has been prepared and executed by the parties, including by counsel for the Israeli defendants and the parties are currently working diligently to document the settlement, given the multiple parties involved, the settlement of claims both here in the US and Israel, and the international nature of the negotiations, the parties will require some time to complete their due diligence and to prepare and finalize the settlement agreement and related documents.

7. Under the current Amended Case Management Order, the discovery deadline in this matter is December 19, 2019. The parties respectfully request a brief adjournment of all deadlines in the Amended Case Management Order to allow the parties to focus their efforts and resources on finalizing the settlement. Attached as Exhibit "A" is an agreed upon proposed Amended Case Management Stipulation and Order which will be formally submitted by the parties separately for the Court's consideration.

8. The parties will be requesting via separate correspondence that the Court schedule a status conference on January 29, 2020. The parties anticipate that a settlement will be finalized by that time and the Trustee will have filed the appropriate Fed. R. Bankr. P. Rule 9019 motion seeking approval of the same.

9. I am available to answer any questions the Court may have.

Dated: November 26, 2019  
New York, New York

/s/ Ted A. Berkowitz  
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